

State of California

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Legislative Change No.

99-28

Bill Number: AB 196

Author: Kuehl

Chapter Number: 99-478

Laws Affecting Franchise Tax Board:

Family Code Sections 17400, 17500, 17505, 17506, and 17508; Revenue and Taxation Code Sections 19271, 19271.5, 19533 and 19548; and Unemployment Insurance Code Section 1088.5.

Date Filed with the Secretary of the State: September 27, 1999

SUBJECT: Child Support Collection and Enforcement

Assembly Bill 196 (Kuehl), as enacted on September 27, 1999, made the following changes to California law:

Section 17400 is added to the Family Code.

This act repeals Section 11475.1 of the Welfare and Institutions Code (WIC) and recasts it as this Family Code (FC) section of law, with the following changes affecting FTB:

1. Effective January 1, 2000, the Franchise Tax Board (FTB) has the responsibility and authority to enforce collection of child support delinquencies. A "child support delinquency" is an arrearage or otherwise past due amount greater than \$100 and more than 60 days in arrears, or as otherwise defined by guidelines prescribed by the Department of Child Support Services (DCSS), in consultation with the FTB. Child support delinquencies will be transferred to the FTB in the form and manner and at the time prescribed by FTB. This transfer is in support of the local child support agency (subdivision (a)(2)); and
2. The recast provisions are amended by this act as follows:
 - A local child support agency's responsibility for enforcement of child support obligations includes the transfer of child support delinquencies to the FTB for enforcement and collection (subdivision h).
 - Wage withholding for current support is the local child support agency's responsibility except to the extent that the law is inconsistent with FTB's responsibility to collect delinquent child support.

This section is effective and operative on January 1, 2000. **However, this section is amended by SB 542 (Stats. 94, Ch.480), which removes the above-described item 1 provision from Section 17400 and amends the above-described bulleted provisions. In general, however, the above-described item 1 provision is continued in SB 542 but as Section 17501 of the FC, which narrows the definition of "child support delinquency" and provides additional detail as to the activities performed by the local child support agencies and FTB.**

Bureau Director

Johnnie Lou Rosas

Date

11/16/1999

Section 17500 is added to the Family Code.

This act repeals Section 11475.15 of the WIC and generally recasts it as this FC section of law. This section provides that a local child support agency may refer child support obligations that are not delinquent or past due to the FTB for collection and, for this purpose, authorizes a local child support agency to delegate responsibility for administering wage withholding to the FTB.

This section is effective and operative on January 1, 2000. **However, this section is amended by SB 542, which removes this provision in its entirety.**

Section 17505 is added to the Family Code.

This act repeals Section 11478 of the WIC and generally recasts it as this FC section of law. It requires all governmental agencies, which includes the FTB, to cooperate with the local child support agencies for child support enforcement purposes.

This section is effective and operative on January 1, 2000.

Section 17506 is added to the Family Code.

This act repeals Section 11478.5 of the WIC and generally recasts it as this FC section of law. This provision requires the California Parent Locator Service in the Department of Justice (CPLS) to collect and disseminate FTB's tax return information for child support enforcement purposes, and for child support enforcement purposes allows FTB to use the federal Parent Locator Service and request and receive assistance and data from other state agencies. Additionally, the California Child Support Automation System, created by AB 150 (Stats. 99, Ch. 479), is allowed the same cooperation and information as the CPLS and expressly allowed access to criminal record information and public utility or cable television information, which is also accessible to FTB (FC Section 17505 (b) and RTC Section 19271 (b)(3)(B)).

This section is effective and operative on January 1, 2000. **However, Sec. 18 of SB 240 (Stats. 99, Ch. 652) expands upon this section to additionally apply to customer service information regardless of whether the information is stored within computer data base and applies to customer service information maintained by providers of electronic digital pager communication or cellular telephone service.**

Section 17508 is added to the Family Code.

This act repeals Section 11478.51 of the WIC and generally recasts it as this FC section of law. This section allows the Employment Development Department (EDD) to provide, upon request, information from the new employee registry to certain governmental agencies, including the FTB, for purposes of child support enforcement and specified social service programs.

This section is effective and operative on January 1, 2000. **However, Sec. 19 of SB 240 expands upon this section to apply to additional EDD records and also to requests from local child support agencies.**

Section 19271 of the Revenue and Taxation Code is amended.

This act provides that local child support agencies will transfer child support collection and enforcement responsibilities and authorities to FTB rather than merely refer cases to FTB for collection as is presently allowed. The local child support agencies will transfer the responsibility and authority for the enforcement and collection of child support delinquencies from the county to FTB effective January 1, 2000; however, systems necessary to accommodate FTB's augmented collection activities are anticipated to be operational until July 1, 2001. To accommodate the workload growth, the transfers to FTB can be phased in over 36 months (subdivision a) ending December 31, 2002.

Upon transfer of the delinquency, FTB would have the authority to enforce collection of the delinquencies as though they were delinquent personal income tax (PIT) liabilities (subdivision (b)(1)(A)). In addition, this act makes the following changes to FTB's existing child support collection program:

1. In the event the debtor owes both delinquent child support and personal income taxes, payment of the delinquent child support will be enforced by FTB before the personal tax debt; however, FTB is not precluded from sending an individual notice for voluntary payment of a PIT liability or taking collection action if collection of that PIT liability would not jeopardize payment of the child support delinquency (subdivision (b)(1)(B)).
2. The FTB can transfer to or allow a county to retain a child support delinquency if the FTB determines the transfer or retention of the delinquency will enhance the collectibility of the delinquency; however, the transfer of a delinquency to FTB cannot be rescinded by the county but instead will remain with the FTB (subdivision (f)(2) and (k)).
3. FTB in coordination with the local child support agency must seek full compliance by the obligor with a current support order. FTB must work with the counties to resolve any issues regarding wage assignments and can modify as necessary any wage assignment administratively issued by a county (subdivision (f)(3)).
4. All California counties are required to participate in the statewide child support delinquency enforcement program, including the federally mandated financial institution data match and levy process (subdivision (j)).

This section is effective and operative on January 1, 2000. **However, Sec. 25 of SB 542 (Stats. 99, Ch. 480) restricts FTB from using earnings withholding orders in collection of child support delinquencies and limits the above-described item 2 provision to those retentions, withdrawals, rescissions or recalls of child support delinquencies subject to transfer that meet specific circumstances described in regulations adopted by the DCSS.**

Section 19271.5 of the Revenue and Taxation Code is repealed.

This act repeals the authority for district attorneys to refer current child support obligations to FTB for collection from an obligor.

This repeal is effective and operative on January 1, 2000.

Section 19533 of the Revenue and Taxation Code is amended.

In the event the debtor owes both delinquent child support and personal income taxes, this act changes the priority in which collection of the delinquencies will be enforced. Payment of the delinquent child support will be enforced by FTB before the personal tax debt. However, in the event, an individual who owes both debts voluntarily makes a payment of personal income tax, the payment will be applied to the personal income tax debt.

This section is effective and operative on January 1, 2000.

Section 19548 of the Revenue and Taxation Code is amended.

This act changes references from WIC sections, repealed by this bill, to the appropriate recast FC section numbers.

This section is effective and operative on January 1, 2000.

Section 1088.8 is added of the Unemployment Insurance Code.

This act requires trades and businesses, which include state agencies, currently required under federal law to file an information return reporting non-employee personal services (independent contractor) for which \$600 or more was paid to accelerate the reporting of those services and payments to Employment Development Department (EDD), operative on July 1, 2000. The reporting must be made the earlier of 20 days after entering into the personal service contract with aggregate payments in excess of \$600 or when payments made exceed \$600. The information can be used for child support enforcement, tax enforcement and EDD purposes.

This section is effective on January 1, 2000, but operative July 1, 2000. **However, SB 542 (Stats. 99, Ch. 480) delays the operative date until January 1, 2001.**

This act will not require any reports by the department to the Legislature.